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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

| | | |
|---------------------------|---|-----------------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | Case No.: 2:19-cr-00012-RFB-NJK |
| Plaintiff, |) | |
| |) | STIPULATION TO CONTINUE |
| vs. |) | MOTION DEADLINES AND TRIAL |
| |) | DATE |
| SIMON CASTILLO, |) | |
| EVERARDO FUENTES, JR., |) | (SIXTH REQUEST) |
| ADRIAN TAMAYO, |) | |
| DARVING BLANDON-PINEL, |) | |
| |) | |
| Defendants. |) | |
| |) | |

IT IS HEREBY STIPULATED AND AGREED, by and between BRIAN J. SMITH, counsel for SIMON CASTILLO, RICHARD WRIGHT, counsel for EVERARDO FUENTES, JR., THOMAS ERICSSON, counsel for ADRIAN TAMAYO, GABRIEL L. GRASSO, counsel for DARVING BLANDON-PINEL, Nicholas A. Trutanich, United States Attorney, and ROBERT KNIEF, Assistant United States Attorney, counsel for the United States of America, that the calendar call currently scheduled for August 4, 2020, at the hour of 1:30 p.m., the jury trial currently scheduled for August 10, 2020, at the hour of 9:00 a.m., be vacated and set to a date and time convenient to this court, but in no event earlier than ninety (90) days.

IT IS FURTHER STIPULATED AND AGREED that the deadline for filing motions be extended to a date and time in conjunction with the Order Regarding Pretrial Procedure. See LCR 12-1.

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1 **IT IS FURTHER STIPULATED AND AGREED** that the deadline for filing any and all
2 responses to such motions be filed in conjunction with Order Regarding Pretrial Procedure. See LCR
3 12-1.

4 **IT IS FURTHER STIPULATED AND AGREED** that the deadline for filing any and all
5 reply briefs be filed in conjunction with Order Regarding Pretrial Procedure. See LCR 12-1.

6 This Stipulation is entered into for the following:
7

- 8 1. On March 16, 2020, the Chief Judge of the U.S. District Court for the District of Nevada
9 issued Temporary General Order 2020-03, which found that due to the outbreak of the
10 coronavirus disease 2019 (“COVID-2019”) in the District of Nevada, the declaration by
11 the Governor of the State of Nevada of a public health emergency due to the spread of
12 COVID-19 in Nevada, and the declaration of local emergencies by local governments
13 due to COVID-19, including Clark County, the Court has sustained “reduced ability to
14 obtain an adequate spectrum of jurors,” and it noted the effects of public health
15 recommendations, including “social distancing measures.” General Order 2020-03
16 accordingly continued all civil and criminal trials until April 10, 2020, pending further
17 order of the Court and found that “the ends of justice are best served by ordering the
18 continuances, which outweighs the best interests of the public and any defendant’s right
19 to a speedy trial under 18 U.S.C. § 3161(h)(7)(A).” On April 9, 2020, Chief Judge Du
20 entered Amended General Order 2020-03, by stating that “the Court has determined that
21 jury trials must be further postponed” without indicating how long the postponement will
22 continue. Amended General Order 2020-03 states further that “each presiding judge will
23 address any needed continuance of their trial in their individual cases.”
24
25 2. On March 19, 2020, the Chief Judge of the U.S. District Court for the District of Nevada
26 issued Temporary General Order 2020-04 (collectively with General Order 2020-03, “the
27
28

1 General Orders”), which noted that “the COVID-19 pandemic has continued to spread,”
2 resulting in the need for “more aggressive social-distancing measures.” The Court noted
3 further that, “[o]n March 17, 2020, the Governor of the State of Nevada ordered the
4 closure of many business establishments and strongly encouraged all citizens to stay
5 home.” Accordingly, the Court ordered the temporary closure of the Clerk’s office, and
6 implemented other changes, including “striving to eliminate in-person court
7 appearances.” In the event any hearing must go forward, the Court will conduct the
8 hearing via video or teleconference. On April 29, 2020, Chief Judge Du entered
9 Amended General Order 2020-04, continuing the Clerk’s office closure and noting that
10 “the Court plans to incrementally resume in-person appearances as appropriate based on
11 recommended health guidelines.” Amended General Order 2020-04 is effective until
12 further notice.
13

- 14
- 15 3. Accordingly, based on the public health emergency brought about by the COVID-2019
16 pandemic, and the required social-distancing measures as recognized in the General
17 Orders and the need for additional time for the defense to prepare, including review of
18 discovery and conducting investigation, the parties agree to continue the currently
19 scheduled calendar call for August 4, 2020, and the trial scheduled for August 10, 2020,
20 to a date and time convenient to this Court, but no sooner than ninety (90) days.
21
- 22 4. The continuance is necessary for the following reasons. First, the failure to grant this
23 continuance would deny counsel for the defendants the reasonable time necessary for
24 effective preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. §
25 3161(h)(7)(B)(iv).
26
- 27 5. Brian J. Smith, counsel for defendant Castillo, is in agreement with this continuance.
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6. Defendant Castillo, who is not in custody, agrees to the continuance.
7. Richard Wright, counsel for Fuentes, is in agreement with this continuance.
8. Defendant Fuentes, who is not in custody, agrees to the continuance.
9. Thomas Ericsson, counsel for Tamayo, is in agreement with this continuance.
10. Defendant Tamayo, who is in custody, agrees to the continuance.
11. Gabriel L. Grasso, counsel for Blandon-Pinel, is in agreement with this continuance.
12. Defendant Blandon-Pinel, who is in custody, agrees to the continuance.
13. Counsel for the government is in agreement with this continuance.
14. Thus, all parties agree to the continuance.
15. All parties stipulate and agree to continue motions and responses/replies deadline.
16. Counsel for the defendants will need additional time to conduct investigation in this case
in order to determine whether there are any pretrial issues that must be litigated and
whether the case will ultimately go to trial or resolved through negotiations.
17. The additional time requested herein is not sought for purposes of delay, but to account
for necessary social distancing in light of COVID-19 public health emergency and to
allow counsel for the defendants' sufficient time to complete necessary research,
prepare and submit appropriate pretrial motions.
18. Additionally, denial of this request or continuance would result in a miscarriage of
justice. The additional time requested by this stipulation is excludable in computing the
time within which the trial herein must commence pursuant to the Speedy Trial Act, §
3161(h)(7)(A), considering the factors under Title 18 United States Code §
3161(h)(7)(B)(i) and 3161(h)(B)(iv).

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This is the sixth stipulation to continue filed herein.

DATED this 30th day of July, 2020.

RESPECTFULLY SUBMITTED BY:

NICHOLAS A. TRUTANICH
United States Attorney

/s/ Robert Knief
ROBERT KNIEF, ESQ.
Assistant United States Attorney

/s/ Brian J. Smith
BRIAN J. SMITH, ESQ.
Attorney for CASTILLO

/s/ Richard Wright
RICHARD WRIGHT, ESQ.
Attorney for FUENTES

/s/ Thomas Ericsson
THOMAS ERICSSON, ESQ.
Attorney for TAMAYO

/s/ Gabriel L. Grasso
GABRIEL L. GRASSO, ESQ.
Attorney for BLANDON-PINEL

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

| | | |
|---------------------------|---|---------------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | Case No.: 2:19-cr-00012-RFB-NJK |
| Plaintiff, |) | |
| |) | FINDINGS AND ORDER ON |
| vs. |) | STIPULATION |
| |) | |
| SIMON CASTILLO, |) | |
| EVERARDO FUENTES, JR., |) | |
| ADRIAN TAMAYO, |) | |
| DARVING BLANDON-PINEL, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

Based upon the submitted Stipulation of the parties, and good cause appearing therefore, the Court finds that:

1. To account for the necessary social-distancing in light of the COVID-2019 public health emergency and with the defendants' consent, the trial dates in this case should be continued for good cause.
2. The continuance is necessary for the following reasons. First, the failure to grant this continuance would deny counsel for the defendants the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(iv).
3. Brian J. Smith, counsel for defendant Castillo is in agreement with this continuance.

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4. Defendant Castillo, who is not in custody, agrees to the continuance.
5. Richard Wright, counsel for Fuentes, is in agreement with this continuance.
6. Defendant Fuentes, who is not in custody, agrees to the continuance.
7. Thomas Ericsson, counsel for Tamayo, is in agreement with this continuance.
8. Defendant Tamayo, who is in custody, agrees to the continuance.
9. Gabriel L. Grasso, counsel for Blandon-Pinel, is in agreement with this continuance.
10. Defendant Blandon-Pinel, who is in custody, agrees to the continuance.
11. Counsel for the government is in agreement with this continuance.
12. Thus, all parties agree to the continuance.
13. All parties stipulate and agree to continue motions and responses/replies deadline.
14. Counsel for the defendants will need additional time to conduct investigation in this case
in order to determine whether there are any pretrial issues that must be litigated and
whether the case will ultimately go to trial or resolved through negotiations.
15. The additional time requested herein is not sought for purposes of delay, but to account
for necessary social distancing in light of COVID-19 public health emergency and to
allow counsel for the defendants' sufficient time to complete necessary research,
prepare and submit appropriate pretrial motions.
16. Additionally, denial of this request or continuance would result in a miscarriage of
justice. The additional time requested by this stipulation is excludable in computing the
time within which the trial herein must commence pursuant to the Speedy Trial Act, §
3161(h)(7)(A), considering the factors under Title 18 United States Code §
3161(h)(7)(B)(i) and 3161(h)(B)(iv).

This is the sixth stipulation to continue filed herein.

CONCLUSIONS OF LAW

The ends of justice served by granting said continuance outweigh the best interest of the public and the defendant in a speedy trial, since the failure to grant said continuance would be likely to result in a miscarriage of justice, would deny the parties herein sufficient time and the opportunity within which to be able to effectively and thoroughly prepare for trial, taking into account the exercise of due diligence.

The continuance sought herein is excludable under the Speedy Trial Act, Title 18, United States Code, Section § 3161 (h)(7)(A), when the considering the factors under Title 18, United States Code, § 3161(h)(7)(B)(i) and (iv).

ORDER

IT IS THEREFORE ORDERED that the calendar call currently scheduled for August 4, 2020, at the hour of 1:30 p.m., be vacated and continued to December 8, 2020 at the hour of 1:30 p.m., and the trial in the above captioned matter currently scheduled for August 10, 2020 at the hour of 9:00 a.m., be vacated and continued to December 14, 2020 at the hour of 9:00 a.m.

IT IS FURTHER ORDERED by and between the parties herein, the deadlines for filing any and all motions are hereby due on or before the 14th day of September, 2020.

IT IS FURTHER ORDERED that the deadlines for filing of responsive pleadings, are hereby due on or before the 28th day of September, 2020.

IT IS FURTHER ORDERED that the deadlines for filing any and all replies to dispositive motions, are hereby due on or before the 5th day of October, 2020.

IT IS FURTHER ORDERED that the trial briefs, proposed voir dire questions, proposed jury instructions, and the list of the Government's prospective witnesses shall be submitted to the Court by December 4, 2020 at the hour of 4:00 p.m.

DATED this 30th of July, 2020.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE